

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JOHN WAYNE ZIBOLSKY,

Plaintiff,  
v.

Case No. 17-cv-1581-pp

STATE OF WISCONSIN, *et al.*,

Defendants.

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**DECISION AND ORDER GRANTING THE PLAINTIFF'S ALTERNATIVE  
REQUEST TO DISMISS HIS CASE WITHOUT PREJUDICE (DKT NO. 9)**

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The plaintiff, who is representing himself, filed a complaint under 42 U.S.C. §1983. Dkt. No. 1. On December 1, 2017 (as required by 28 U.S.C. §1915), the court ordered the plaintiff to pay an initial partial filing fee of \$2.19 on or before December 26, 2017. Dkt. No. 7.

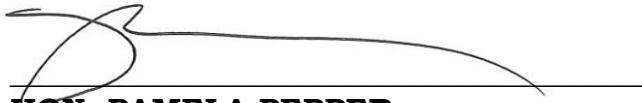
A couple of days after the deadline, the court received a motion from the plaintiff, asking the court to extend the deadline by which he must pay the initial partial filing fee. Dkt. No. 9. The plaintiff explains that he is now out of custody and will not have funds to pay the initial partial filing fee until after his Social Security check arrives. He explains that, when he was in custody, he was able to make payments on filing fees from his prison account, but now that he is out and living on his Social Security checks, he is not sure how he can make filing fee payments. As an alternative to giving him more time to pay the fee, the plaintiff asks the court to dismiss the case without prejudice "for now."

Given the plaintiff's financial situation, the court believes it makes more sense to dismiss the plaintiff's case without prejudice for now. This will give him a chance to focus on his current financial situation, and to figure out whether he has the funds to support a lawsuit given his change in conditions. He may refile his lawsuit at some point in the future if he feels that he is in a financial position to do so.

The court **GRANTS** the plaintiff's alternative motion to dismiss his case without prejudice. Dkt. No. 9. The court **ORDERS** that this case is dismissed **WITHOUT PREJUDICE**, and that the plaintiff may file the case again in the future (subject to any applicable statute of limitations) if he feels he is financially able to do so.

Dated in Milwaukee, Wisconsin this 22nd day of January, 2018.

**BY THE COURT:**



**HON. PAMELA PEPPER**  
**United States District Judge**